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PTO IDENTIFIER: Application Number 10/663,835-Conf. #2702

Patent Number

Inventor: Fritz Gestermann et al.

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FROM: CONNOLLY BOVE LODGE & HUTZ LLP

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Attorney Dkt #: 22133-00006-US

PAGES (Including Cover Sheet): 4

CONTENTS: Response to Restriction Requirement (with Traverse) (2 pages)  
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Application No. (If known): 10/663,835

Attorney Docket No.: 22133-00006-US

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Response to Restriction Requirement (with Traverse) (2 pages)

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NO. 5404 P. 3

Docket No.: 22133-00006-US  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Fritz Gestermann et al.

Application No.: 10/663,835

Confirmation No.: 2702

Filed: September 17, 2003

Art Unit: 1762

For: PROCESS FOR THE PRODUCTION OF A  
GAS DIFFUSION ELECTRODE

Examiner: Brian K. Talbot

**RESPONSE TO RESTRICTION REQUIREMENT**

MS Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

In response to the restriction requirement set forth in the Office Action mailed May 26, 2005 (Paper No. 20050525), applicants hereby provisionally elect claims 13, 15 and 18-21 (Group II) for continued examination, with traverse.

The Examiner has required restriction between claims 1-12, 14, 16 and 17 (Group I) and claims 13,15 and 18-21 (Group II).

The Commissioner may require restriction if two or more independent and distinct inventions are claimed in a single application (37 CFR 1.142(a)). In the present case, although the claimed subject matter may be classified in different classes, the inventions are not independent. Here claims 13, 15 and 18-21 are directed to a gas electrode that necessarily includes the process of claim 1. Hence, since these claims depend from claim 1 and include all features thereof, the restriction is improper. Moreover, the inventions should be allowed together under the *In re Ochiai* guidelines.

Application No.: 10/663,835

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If the Examiner is aware of another method to make the same product as claimed, using a process which is materially different from that set forth in the preferred restricted claims, Applicants respectfully request the Examiner to substantiate his position in greater detail. Otherwise, it is respectfully requested that the restriction requirement be withdrawn, and that each of claims 1-21 presently pending in this application be examined.

Applicants believe no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 22-0185, under Order No. 22133-00006-US from which the undersigned is authorized to draw.

Dated: June 7, 2005

Respectfully submitted,

By Susan E. Shaw McBee  
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